



STATE OF NEW YORK

UNEMPLOYMENT INSURANCE APPEAL BOARD

PO Box 15126

Albany NY 12212-5126

DECISION OF THE BOARD

Mailed and Filed: JULY 10, 2023

IN THE MATTER OF:

Appeal Board No. 629116

PRESENT: RANDALL T. DOUGLAS, MEMBER

The Department of Labor issued the initial determination disqualifying the claimant from receiving benefits, effective December 29, 2022, on the basis that the claimant voluntarily separated from employment without good cause. The claimant requested a hearing.

The Administrative Law Judge held a telephone conference hearing at which all parties were accorded a full opportunity to be heard and at which testimony was taken. There were appearances on behalf of the claimant and the employer. By decision filed May 1, 2023 (), the Administrative Law Judge sustained the initial determination.

The claimant appealed the Judge's decision to the Appeal Board. The Board considered the arguments contained in the written statement submitted on behalf of the claimant.

Based on the record and testimony in this case, the Board makes the following

FINDINGS OF FACT: The claimant, an engineer, was employed as a project manager by the employer engineering and consulting firm for more than 10 months. The claimant's job duties included putting together project documents, visiting sites, preparing reports, and generally overseeing ongoing projects.

Prior to accepting a new project in November 2022, the employer's owner asked the claimant whether it was something she had experience with, since she had a mechanical engineering background. Though the owner was a licensed engineer, she did not have mechanical engineering experience doing the work required for

the project. The claimant assured the employer that she had the experience needed, and the employer took on the new project in late November or early December 2022.

Thereafter, the claimant asked the owner to get some documents from the client that the claimant needed, and the owner provided the documents produced, though the client did not have everything the claimant asked requested. The claimant was not able to complete the project in the time period initially set, and the deadline was extended a number of times. On multiple occasions, the claimant brought concerns about the project to the owner, and the owner had Zoom conferences with the claimant to go over the project details many times. However, the claimant concluded that she was not getting the assistance and support she needed on the project. The claimant last worked on December 27, 2022. On December 28, the claimant made the decision to quit; she called the owner and informed her that she no longer wanted to work there, and was quitting effective immediately.

OPINION: The credible, consistent evidence establishes that the claimant voluntarily quit her job on December 28, 2022 because she concluded that she was not getting the assistance and support she needed on a project she had been assigned.

We are more persuaded by the specific and consistent testimony provided by the owner that she and the claimant had multiple discussions about the project, both before and after the employer agreed to take it on, than by the claimant's general statement that the employer "did nothing" when she asked for help. Further, we note that in the claimant's hearing request she referred to the owner discussing the project with her outside of the claimant's work hours. This statement undercuts the claimant's assertion that the owner did not and would not discuss the project with her.

We are not convinced that she quit when she did because the employer told her she did not have any more paid time off available, since the claimant's testimony on this point is internally inconsistent. She testified both that if she felt like she was getting help with the project, she would have stayed on and worked out the pay issue, and that even if she had gotten assistance with the project, she still would have quit. In addition, when the claimant spoke with a Department of Labor representative on February 8, 2023, prior to the issuance of the determination disqualifying her, the claimant indicated that the "final straw" regarding her decision to quit was the employer's failure to

help her with and review a project she was working on. The claimant testified that it was only after she spoke with an attorney about her separation from employment that she realized that the paid leave situation was what she should focus on. Since that conversation occurred after the claimant quit, it could not have been the reason the claimant chose to end her employment.

A claimant's dissatisfaction with her job assignment or the way the employer operated its business does not constitute good cause for quitting employment for unemployment insurance purposes. Here, the claimant may not have been pleased with the assistance she was getting from the employer on a project, but that dissatisfaction does not amount to good cause to voluntarily quit her job under the Labor Law. Thus, we find that the claimant did not have good cause for her voluntary separation, and we conclude that the claimant was separated from her employment under disqualifying circumstances.

The cases cited in the claimant's statement on appeal are factually distinguishable from the matter before us, and are therefore not dispositive. Appeal Board No. 545861 involves a claimant who did not possess the skills required to perform the job, and left after working less than one month, which was considered to be a "trial period" of employment. The claimant in the case now before us was employed for

more than 10 months; she did not quit after a brief, trial period. Appeal Board No. 561671 indicates that the claimant quit in lieu of an imminent termination. Although the employer in the case now before the Board testified that she "probably" would have let the claimant go in the future, the record does not establish that the claimant had been told she was going to be discharged, or had been given the option of quitting rather than being discharged, a necessary element of a quit in lieu of discharge. The Federal case cited involves a claim of employment discrimination, and is not determinative on the unemployment insurance issue before us. Finally, to the extent that the claimant's representative asserts facts not in evidence in the claimant's statement on appeal, these facts are not new or material, and will not be considered by the Board.

DECISION: The decision of the Administrative Law Judge is affirmed.

The initial determination disqualifying the claimant from receiving benefits, effective December 29, 2022, on the basis that the claimant voluntarily separated from employment without good cause, is sustained.

The claimant is denied benefits with respect to the issues decided herein.

RANDALL T. DOUGLAS, MEMBER